

THE GALPHIN CLAIM.

SPEECH

OF

HON. J. W. HOUSTON, OF DELAWARE,

IN THE HOUSE OF REPRESENTATIVES, JULY 3, 1850,

On the Report and Resolutions of the Select Committee appointed to investigate the conduct and relations of Hon. George W. Crawford, Secretary of War, in regard to the claim of the representatives of George Galphin.

Mr. HOUSTON said:

Mr. SPEAKER: In the last Congress of the United States I voted, sir, for the bill to pay the claim of the heirs of George Galphin, believing it to be a well-founded claim against the Government of the United States. And if I required an excuse on the present occasion for entering into an examination of the validity of the claim as against the United States, the extraordinary speech which we have just heard from the extraordinary member from Ohio [Mr. CARTER] would furnish me with that excuse. For no one can have failed to observe in the course of the remarks which the gentleman submitted to the consideration of this House, and which, I am sure, he must have intended for the consideration of a much wider circle than is contained within these walls, that he took special occasion to condemn and denounce, in the most unmeasured terms of vituperation and abuse, every individual, both in the last Congress and in the present Cabinet, who have had anything to do with the recognition and settlement of this claim. And he has even embraced in these indiscriminate and unwarrantable denunciations in which he has seen proper to indulge, the President and all the heads of departments, a majority of whom, it is well known, had no connection with the allowance of it.

Now, I should be perfectly content that the member from Ohio should have the benefit of this *ad captandum* speech, as against the Administration—which he has thought proper to characterize by a phrase which could only have been fished up from the sewers of the city, or from the scuff and scum of a polluted press, and the corrupt and profligate partisan publications of the day, and which cannot be redeemed from the infamy and depravity of its origin by its introduction here,—if he had not, with a degree of inconsistency which cannot be overlooked, at the same time come forward and presented himself as the peculiar friend and voluntary champion, not only of public justice, but of private virtue and personal honor and integrity. Sir, it is obvious, that in a transaction like this, purely personal in its character, having nothing to do with the political measures and political principles of either party in this country, that the remarks of the member from Ohio were intended to have their effect elsewhere than in this House; and I must be permitted to say, whatever

may be his opinions in such a case, that it does not accord with any sentiments which I entertain on the subject either of public justice or private integrity, to seize hold of such a measure, and torture it into all sorts of misrepresentations; for the mere purpose of turning it to a political and party account. And, sir, when a member goes further, after having denounced the Secretary of War as a corrupt, dishonest, and dishonorable man, and then pronounces him the least guilty of all who were engaged in the settlement of the claim, on the sole ground that he had money to make by the operation, I must be permitted to express the hope that the honorable member does not entertain this novel conviction from an inward consciousness that he could be influenced by any such pecuniary considerations in a like case himself; and in the sordid motives which he has gratuitously imputed to the Secretary of War, and on the ground of which he has made such a singular distinction in his favor, it is not, I trust, because

“A fellow feeling makes him wondrous kind!”

And let me here ask the member from Ohio, what reason—what grounds he had for including in these violent denunciations, with which he has shocked, I am sure, the moral sense of all sides of this House, every member of the existing Cabinet? Is there any circumstance or fact in proof before us or before the country, to warrant the aspersions which he cast upon them, and the assertion he has made that the whole Cabinet were engaged in this transaction of public plunder and public robbery, as he has been pleased to characterize it?

Sir, the member from Ohio knows full well that there is no testimony here—aye, sir, and that there cannot be, because there is no foundation for such testimony anywhere—that even a majority of the present Cabinet knew anything of this claim or of its settlement, until after it had become a matter of censorious comment in the public press. Sir, so far as the Administration is concerned, the knowledge of it was confined to three members of the Cabinet, and the gentleman has unjustly censured, and grossly calumniated, honorable men engaged in the public service, who knew nothing of this matter until then, by including them in the general condemnation and denunciation which he has chosen to fulminate indiscriminately against this claim, and against all those who in the last

Congress sanctioned it as a just claim against the Government, and those who have since, by our direction and authority, been connected with the examination and adjustment of it.

It is not my purpose, however, so far as the merits of this case are concerned, to distinguish between those gentlemen, because I feel well assured that there is no member of this House who believes that there is in the facts or circumstances of the case, anything to warrant the slightest presumption of fraud, corruption, or unfairness, combination, or any equivalent term which the honorable member may see proper to employ, against the whole or any one of them.

As I have already remarked, I was one of those who, in August, 1848, allowed to pass without objection, and consequently may be considered as having voted for, the bill for the payment of this claim, or, in the language of the bill, to authorize the Secretary of the Treasury—the then Secretary, Hon. Robert J. Walker—to examine and adjust the claim, and to pay to the executors of George Galphin whatever might be due upon it. And I will go further, and say now, what perhaps no gentleman has yet said, that if I were called upon to-day to vote for that bill, with the facts now before us, and with the views which I entertain at present in regard to it, I would cheerfully vote for it again, because I believe it to be right and just, and that it should be paid. Sir, in the Congress which preceded the last, and in the last, in both of which I had the honor to serve, I was engaged in but little else than in prosecuting, and in providing the ways and means of paying and satisfying claims. It was during the progress of the war with Mexico, and during that contest I voted millions of dollars and thousands of men, in order to obtain “*indemnity for the past and security for the future*,” as we were told, and to protect the rights and property of citizens of the United States against the aggressions and spoliations of that country. And, sir, if, after having voted all this money and all these men to obtain indemnity for these spoliations, I had refused, at the close of the contest, to pay a claim like this—a well-founded, just, and meritorious claim against the Government of the United States, as I now believe it to be, I should have felt that I was guilty of the grossest inconsistency as a public agent and an impartial guardian of the public Treasury.

The view that I take of this claim is different in one important respect from those which have been presented by several gentlemen who have participated in this debate, and who have expressed themselves so freely in regard to it.

The honorable gentleman from New York, [Mr. McKissock,] who addressed the House this morning—indeed almost every gentleman who has, thus far, participated in the debate on either side—has spoken of this claim of George Galphin as a trust. Others, too, and among them honorable members of the committee, have spoken of it and treated it as a trust. This I apprehend is a mistake, and grows out of a misconception of the true nature and effect of the treaty. What is meant by a trust, in the sense in which it has been used on this occasion? We all know that it is a legal term, and has a precise and definite meaning; and viewing it in this light, which is the only proper light in which it can be viewed when we speak of it in this sense, I will take it upon myself to say, with

all becoming deference, that it does not possess any of the essential qualities and characteristics of a trust. A brief inquiry into this point is material, for on the accuracy of this conclusion depends the question whether Georgia, instead of the United States, was bound in justice and in equity to pay the claim.

The claim (briefly to recapitulate the facts so far as is necessary to show the origin of it) is this: George Galphin with a number of others, traders under a license from the British Crown, in the colony of Georgia, prior to the year 1773, held certain claims against the Creek and Cherokee Indians, the justice and validity of which, so far as I am informed, have never been impeached, until they were impeached here this day by the member from Ohio. But the gentleman has furnished no ground, except the general character of the Indian traders of the present day, to justify the impeachment which he preferred against the character of George Galphin. It was a gratuitous and an unworthy imputation which fell from the lips of the honorable member from Ohio, when he ventured to speak of him as a “*whiskey patriot*.” But fortunately for his memory, sir, his character is beyond the reach of all such assaults and aspersions as these; it is completely vindicated and established, by the evidence of a signer of the Declaration of Independence, who has borne honorable testimony to the high moral qualities which adorned his private character, and to the patriotic virtues of his public life; and who has testified that it was chiefly through his great influence and popularity with these Indian tribes, and his active and unremitted exertions among them, in opposition to the machinations and solicitations of the agents of the British Crown, that the horrors of the Indian tomahawk and scalping-knife were averted from the frontiers of Georgia and South Carolina during the revolutionary war; and that it was chiefly through his persuasion they were induced to remain entirely peaceable and quiet throughout the whole of that momentous and doubtful struggle. I take it, then, for granted, that it was a well-founded and just claim against the Indians. There is no proof to the contrary—not even a vestige of proof. The Indians, not being able to pay the claim, entered into a treaty with Great Britain in 1773, by virtue of which these lands were ceded to the Crown, and that treaty embraced, among other provisions, a stipulation that the claim of these Indian traders, among whom was Galphin, should be paid out of them. Now, sir, did that create a trust? Did that constitute the Crown of Great Britain a trustee for the administration of these lands, that they should be applied upon the principles of equity, for the satisfaction of these claims of Galphin and others? Did it create a trust, sir? Bear in mind that the word, as I said before, has a precise legal significance.

It created no trust whatever, in my judgment; on the contrary, by virtue of the treaty and cession, I hold that these lands became absolutely the property of Great Britain; and in consideration of that fact, the claims of the Indian traders became an absolute debt against the Crown.

Gentlemen talk as if these lands were an equitable trust fund, and that these debts due from the Indians were a charge and a lien upon them, and consequently followed them after they had passed

under the sovereignty and dominion of the State of Georgia, and of which that State afterwards came into the absolute possession, by right of conquest. Sir, there is nothing more erroneous, in my apprehension, legally speaking, than such an assumption. To expose the error and fallacy of this presumption, let us for a moment suppose that the Crown of Great Britain had ceded away these lands to the Crown of France, or the Crown of Spain, or, to make the parallel more complete, suppose the Crown of France or the Crown of Spain had subjugated these lands, and taken possession of them by conquest: would the Crown of France or of Spain have taken the land, in either of these supposed cases, subject to the charge of these debts? Will any gentleman pretend that the Crown of France or of Spain, as the case might be, would in that event have been bound to pay the claim of George Galphin, or any of the other Indian traders? Clearly not. Or if the British Crown had ceded the lands away by treaty, they would not have been liable. It was, then, an actual absolute debt, so far as Galphin was concerned, against the Crown of Great Britain.

I would further remark on this point, Mr. Speaker, that it does not exactly comport with any ideas which I have conceived or entertain upon this subject, to suppose that such an estate or interest in lands, as an equitable trust, in any just and proper sense of that term, can be created by a public treaty. It appears to me that gentlemen who have thus regarded it, and have spoken of charges, liens, or incumbrances, as existing on these lands for the benefit of these claimants, after Georgia had confiscated and taken forcible possession of them as the property of the Crown of Great Britain, have fallen into a serious error, by applying to sovereignties holding under a treaty, or by conquest, a rule of law which is only applicable to private individuals and corporations. I therefore divest this cession of all these professional misconceptions, and hold, that if these lands had all been swallowed up by an earthquake the day after the ratification of the treaty of 1773, the British Crown would still have been absolutely bound for the payment of every dollar of these debts due to the Indian traders. Georgia subsequently seized and took possession of them by the sword, and held them by a title equally at war with the title of the Crown, and the title of the traders, so far as they had any claim on the land. It is true that in 1780 the Legislature of Georgia passed an act, in which all persons having any claims on account of these lands were invited to present them for examination and adjustment, and were promised payment. But the Legislature never acknowledged that the State held the lands in trust for any of these claimants, to any amount whatever; and the State never complied with this promise. On the contrary, the State took the ground that they were good debts against the Government of Great Britain, notwithstanding her act of confiscation. Galphin was dead at the time of the passage of this act, but his claim had been previously liquidated, in 1775, by the English commissioners under the treaty, and had been ascertained to amount to nine thousand seven hundred and ninety-one pounds fifteen shillings and five pence, for which a certificate was duly issued and granted to him. Could the facts and circumstances of this case, sir, be supposed to

raise or create, on the part of Georgia, any obligation in the nature of a trust to pay this claim, the legal representatives of Galphin, after the adoption of the Federal Constitution, in 1789, would have their remedy in the courts of the United States to enforce the payment of it, for the judicial power of the United States is expressly extended by the Constitution to "all cases in law and equity between a State and the citizens of another State;" and his executor, I believe, is now a citizen of the district of the honorable gentleman from South Carolina, [Mr. Burr,] the chairman of the committee. But no one ever assumed the ground, before this claim was introduced into Congress, that it was a trust, and that it devolved upon Georgia to administer the fund according to the stipulations of the treaty by which it was ceded to Great Britain; and I challenge any gentleman to produce from the various and voluminous reports submitted by committees to the Legislature of Georgia from time to time, either for or against the claim, a single admission to that effect. The true nature of the case, and the true ground on which it is presented as a just claim against the United States, is indicated, I think, in the letter of Governor Schley of that State, addressed to General Jackson in 1837, upon the passage of the act of Congress instructing the President to ascertain and communicate to Congress the facts in regard to the claim. It appears to me, and with all due respect I say it, that gentlemen who discourse of this matter in this way, under a vague idea of a subsisting obligation in equity on the part of Georgia to pay this claim, under a public treaty negotiated by the Creek and Cherokee Indians with George the Third, "by the grace of God, King of Great Britain, Ireland, and France, Defender of the Faith," &c., might, with equal propriety, and perhaps, a little more professional precision and accuracy, pronounce it a conveyance by the Indians to pay debts, and dubb His Majesty, in legal parlance, with all his royal titles, attributes and sovereignty clustering thick about him—a mere assignee for the benefit of creditors—made such by the instrumentality of a public treaty. I therefore again repeat, sir, that such was not the character, effect, or operation, of the treaty; and that, consequently, the claims of George Galphin and his fellow traders, on the breaking out of the Revolution and the confiscation of these Indian lands by the State of Georgia, so far as they could have any legal force or obligation whatever, remained valid and subsisting debts against the Crown of Great Britain solely. But George Galphin was a patriot, and a man of unquestionable attachment and devotion to his country; and notwithstanding he had this large demand against his sovereign, and this deep pecuniary interest in the preservation of his power and authority over the colonies, he cordially embraced the common cause of his countrymen, and devoted the best energies of the remainder of his life to the achievement of their liberties. For this act of fidelity and devotion to the freedom of his country, he was attainted of high treason by a resolution of Parliament, and a price was set upon his head as an outlaw and a rebel by the British Government. And in consequence of this, he forfeited, and lawfully forfeited, his debt under the treaty against that Government. For by his treason and rebellion, by the laws of the kingdom,

he had forfeited all his estates to the Crown, and *a fortiori* did he justly forfeit a debt due to him under these circumstances from his former sovereign. And accordingly when, several years after the close of the Revolution, his executor applied to the English Government for the payment of this claim, in consequence of the information which he had received that that Government had made provision for the satisfaction of these claims, and had actually paid principal and interest on all of them, to such of these traders as had remained true to their allegiance and faithful to the Royal cause throughout the revolutionary conflict—clearly showing that that Government did not consider the validity of these demands against the Crown as in any degree affected or impaired by the result of the contest and the mere loss of the lands,—what was the answer which he received to this application? Not that the cession was a trust, and that the State of Georgia was bound to pay it; not that he had any guarantee or relief in a supposition of this kind; but he was substantially informed that his father had been a traitor and a rebel—that he had coöperated, by the hostile cause which he had espoused, in wresting these lands from the Crown, and that he had thereby forfeited his debt, and that the demand would not be paid.

This application, however, was not made until several years after the termination of the Revolution, and not until after the Legislature of Georgia had positively refused to pay the claim, and when made, was made by the son and executor of the original claimant, as I have before stated. This step was taken, I have no doubt, by the advice of his legal counsel, and in consequence of the information which he had received that a portion of these claims had been paid by the British Government. Is it not, therefore, strange, and quite as reckless as strange, that the member from Ohio, when commenting on this particular incident in that general strain of invective and abuse which characterized his whole speech, should have assumed the responsibility of representing George Galphin as ignominiously soliciting, after the war was over and his work of treason and rebellion had been victoriously consummated, the payment of this debt upon his knees from the British Crown, when it is a well-known fact, distinctly stated in the report of the committee, that he had long before this event been gathered to his fathers, and had slept in peace from the year 1780 in the sacred slumber of a patriot's grave. No remark is necessary upon such an apparently wanton and deliberate perversion of one of the most simple and obvious facts in the history of this claim.

Having shown, Mr. Speaker, by the line of argument which I have adopted, and by the view which I have endeavored to enforce as to the original character and obligation of this claim, that George Galphin had forfeited a just and legal debt against the Government of Great Britain by his patriotic devotion to his country in 1776, and by nobly identifying his fortunes with those of the colonies in that glorious and memorable struggle for national independence, the question next arises, who in honor and in justice was bound to indemnify his heirs against this loss—the United States, or the State of Georgia alone? Sir, I have no hesitation in saying, with the view which I take of this case, that it was a stronger and more meritorious claim against the original thirteen States of this

Union, than it was against the State of Georgia alone. The debt, as I have already shown by the facts which I have stated, was not forfeited by the loss of the lands to the British Crown, but was forfeited by his adhering to its enemies in the revolutionary conflict which soon after ensued. Had Great Britain prevailed in that conflict, and recovered these lands, as she undoubtedly would have done, by declaring the confiscation and subsequent disposition of them by the State of Georgia an act of rebellion, and consequently null and void, that Government could have justly refused, and in all probability would have refused, to pay his claim, on the ground that he had forever forfeited the payment of it by adhering to its enemies in the progress of the war. But the act and the cause by which he incurred this forfeiture and sustained the entire sacrifice of his debt, was not the act and the cause of Georgia alone; on the contrary, it was the express act of the Federal Government at that time, and the cause of all the colonies combined. The loss of this debt, then, as against the British Crown, may justly be considered as the act of the whole country, and as a part of the price paid for American Independence. Every State in the Union reaped the benefit of his public services, and participated alike in the general good which resulted from his patriotic sacrifices; and for that reason, the moment his demand was forfeited, it became a just and meritorious claim against the whole United States; and if he had survived until the close of the Revolution, and had then been driven as a mendicant to beg a subsistence among the several States of the Union, the simple story of his patriotic sacrifices and his patriotic devotion to the cause of his whole country, and the bankruptcy and ruin which he had incurred by it, would have constituted, in my opinion, quite as strong an appeal to the sympathies and justice of the people of Delaware, as the people of Georgia, or of any other State; and therefore it is that I am willing, as the Representative of that State, to recognize it—as a just and meritorious claim against the Federal Government. The majority of the committee has reported and affirmed that this was not a just claim against the United States. They have not declared or intimated, however, that it was a just claim against the State of Georgia, although they have concurred in all the facts which I have stated. So far, then, as the report goes, I suppose we may conclude, as the judgment of the majority, that it was a just claim against nobody. The phraseology of the resolution to which I advert is peculiar. The language is, that it was not a just claim. What is a just claim? I know of no criterion by which we are to determine what is a just claim, unless it is such a claim as appeals to our sense of justice for redress. Technical principles of law and jurisprudence have nothing to do with it. And determined by this standard, I know of no claim which, under the circumstances, could address itself more strongly to our sense of justice and of right than this. I throw out of consideration, as altogether unnecessary for my purpose, the fact that Georgia bestowed a large part of these lands in bounty lands upon soldiers of the Revolution. I also, for the same reason, throw out of view her exhausted and impoverished condition, in common with all her sister States, in which she emerged from that arduous and protracted conflict. Grant that her

refusal to pay this claim may have been ungenerous and illiberal, and even unjust if you please. As to that, however, I express no opinion, nor is it material that I should do so. For of this I am certain, that whether just or unjust, and whatever may have been the reasons for it, whether good or bad, her refusal to pay it, so far from weakening, only enhanced the obligation of the United States in point of justice and magnanimity to assume the satisfaction of it, and to pay it without caviling about the amount.

Having now, Mr. Speaker, disposed of this part of the case, I will next proceed to advert very briefly to some of the arguments advanced by the majority of the committee against this claim as a just demand against the United States. That committee, or at least the majority of it, has reported that this was not a "just demand" against the United States; and the arguments by which they endeavor to sustain this conclusion, it appears to me, would have been much more appropriately addressed to the last Congress, when the bill for the payment of it was pending, than to the present House of Representatives. That Congress, in 1848, recognized it as a just claim against the Federal Government, and provided by an act, passed on the 12th of August in that year, for the payment of whatever amount might, on an examination and adjustment by the Secretary of the Treasury, be found to be due upon it. Now, here is a discrepancy between the action of the last Congress and the report of this special committee; and when it denies the validity of the claim against the United States, it certainly casts a strong imputation on the justice and discretion of the last Congress, in passing a law providing for the payment of it. Sir, I do not feel that any of this public and implied censure justly applies to me: Those who inconsiderately voted for the claim in the last Congress, and who find occasion to condemn it, now may feel the reproach which it justly casts upon them. But such is not my position. I voted for the payment of the claim in that Congress, and I now stand ready in this, to vindicate and justify it.

"Let the galled jade wince, my withers are unwrung."

By the deliberate act of the last Congress, we acknowledged the justice of the claim, as a proper demand against the United States, passed an act for the payment of it, and that act was approved by Mr. Polk, the late President. By the law, it was referred to Mr. Walker, then Secretary of the Treasury, to examine and adjust the claim, and to pay what might be found to be due upon it. It was not much which he was required to do under it, yet it seems that the duty imposed was not entirely performed by him. He took up the case, and after calmly examining the claim, concluded to allow the principal, and suspended the payment of the interest. Why did he do this? He knew the law in the case, and had it before him; and if the construction of the act and the precedents applicable to it, are so clear as to the exclusion of interest, as some gentlemen and a majority of the committee now contend; if it be true, as the majority of the committee now unhesitatingly allege, that the interest was paid without authority of law and precedent, why did not Mr. Walker at once say—I will pay the principal, but I cannot allow the interest; there is no authority of law or precedent for it? It will not do for gentlemen to suggest that he had not time to determine this ques-

tion. The act was passed in August, 1848, and Mr. Walker continued in office until the 4th of March, 1849; a period, therefore, of between six and seven months elapsed from the time the law was passed until the expiration of his term of office. Besides, he was familiar with the practice and the precedents of the Treasury Department in such cases, far more so, I apprehend, than the gentlemen who compose this committee, and who have examined the whole claim, produced witnesses, and thoroughly investigated every fact in regard to it, in much less time than was allowed him to examine and adjust it without any of these tedious and attendant circumstances. Why, then, I again inquire, did he suspend the payment of the interest, at the time he allowed the principal and issued his draft for it; and why did he not, instead of merely suspending it, at once disallow it, as an unlawful demand against the Government, if the law and the precedents be as clear and obvious as honorable gentlemen have contended? Why did he leave it unsettled and undecided, and bequeath it as a grave and solemn legacy, involving a serious administrative responsibility, to his successor in office, the present able and incorruptible head of that department? Not, I trust, to become, as it has since unjustly been made, the fruitful theme of malignant animadversion and scurrilous abuse against the incoming Administration. Sir, if I may be permitted to hazard a conjecture on this point, I would say, that it is highly probable to my mind that Mr. Walker was at that time impressed with the belief that the interest on this claim ought to have been allowed, and that the inclination of his judgment was rather in favor of allowing than of disallowing it; since to doubt, and to doubt seriously on such a question, appears to me to impose the duty in such a case of rejecting the demand without the slightest hesitation. But we are not left to mere conjecture or surmise on this point, for Mr. Walker has distinctly informed us, in his testimony taken before the committee, that had the argument been submitted to him whilst he was Secretary of the Treasury which was afterwards submitted by Mr. Johnson, the Attorney General, to Mr. Meredith, in regard to the allowance of the interest, he would have allowed it.

For my own part, I cannot conceive how this claim can be justly due, without carrying the legal incident of interest with it. Nor can I perceive upon what ground, on a calm and dispassionate consideration of the phraseology of the act of Congress directing its settlement, a distinction can be taken and maintained between the principal and interest. By the words of the act, the Secretary of the Treasury is authorized and required to examine and adjust the claim of the heirs and legal representatives of George Galphin, under the treaty of 1773 with the Creek and Cherokee Indians, and to pay what is due. What was this claim? A certificate of indebtedness for a certain liquidated sum of nine thousand seven hundred and ninety-one pounds fifteen shillings and five pence, issued by the commissioners under the treaty in 1775, and delivered to George Galphin, and which in that day fixed and ascertained the exact amount of his claim. And, therefore, when the Secretary of the Treasury was instructed by this act to examine and adjust the claim of George Galphin under this treaty, he was neither authorized nor required to look behind or beyond this certificate,

which fixed his claim "under the treaty," or to engage in a fruitless and useless inquiry, after the lapse of so many years, in order to determine whether that certificate was correct or not. The words of the act, then, appear to me necessarily to imply, by virtue of the terms to "examine and adjust, and pay what is due," that interest, at such a per cent. as might be thought just and proper under the circumstances by the Secretary, should be allowed upon it. In the argument submitted by the three members of the committee, at the head of whom stands the honorable gentleman from Ohio, [Mr. DISNEY,] I observe that so strong is this presumption, resulting from the peculiar phraseology of the act, that they seem to feel under the necessity of meeting and explaining it away in some manner, and which they have endeavored to do, by a novel and rather puerile suggestion, which I cannot but think constitutes a gross blemish and a very feeble point in an argument which is otherwise ingenious and plausible. I have read that argument with much attention, and I will do the honorable gentlemen who have submitted it the justice to say, that it is characterized by much ingenuity and ability. But at the same time, I must be permitted to say, with due respect for those gentlemen, that it only shows the extremity to which their ingenuity has been taxed, when they are reduced to the necessity of suggesting such a puerility as this. The passage in that argument to which I allude, is that which seriously suggests that, inasmuch as the liquidated sum due upon the face of this certificate was in pounds shillings and pence, the object of the act might have been to refer it to the Secretary of the Treasury, to ascertain what that sum would amount to in dollars and cents. Yes, sir; these honorable gentlemen, in the ingenious argument to which I have referred, have gravely ventured to suggest that the object of the Senate and House of Representatives of the United States, in adopting the particular phraseology of this act, was to devolve on the Secretary of the Treasury no more solemn duty than the simple mathematical problem of cyphering out and determining how much nine thousand seven hundred and ninety-one pounds fifteen shillings and five pence—(Georgia currency, they are pleased to add)—will amount to in dollars and cents at the present day! The ludicrous fallacy of such a supposition requires no comment to expose it. It needs only to be stated to be repudiated.

If I understand the rule under which interest is allowed on claims against this Government, and every civilized government in the world, I believe it is this: where the claim is for a certain and ascertained sum of money in the nature of a debt, as for so much money expended or advanced on public account, or certain property of a fixed and definite value has been seized or taken for the public use,—in all such cases, it has been the uniform practice of all governments, I believe, to allow interest at the usual rate on the demand; but where the claim is for an injury or damage committed by the government, and which is necessarily vague and indefinite in its character, until it is liquidated and determined by the verdict of a jury, or in some equivalent method, the custom in general is not to allow interest, as interest, in these latter cases. It is not to be denied, however, that there is a large class of cases of claims against the Government in

which interest has been disallowed; and it is likewise true, there is another large class in which it has been allowed; and although there may have been some conflicting decisions among them, I believe the correct and general rule of discrimination between them is that which I have just stated. But whether this distinction has been strictly observed or not in these cases, when a claimant comes here with his certificate of debt in his hand for a specific and liquidated sum, and pleads an act of Congress which shows that it is to be adjusted and settled according to the evidence upon its face, there can be no doubt of the fact, that by the principles of common right and common justice, as practised among all civilized nations and among man and man, the interest is both a just and legal part of the demand, and ought to be paid. And this opinion, sir, is sanctioned by the highest authority in this country. It is stamped with the emphatic approbation of the late Judge Story, and has received the deliberate endorsement of the present Chief Justice of the United States when he was Attorney General. On such authorities as these I am willing to rest the decision of this question, so far as it depends on legal precedents. But I cannot forbear to remark, that I have no respect either for the reasoning or the authorities which would make an arbitrary distinction between the Government and private individuals in such cases. It is a theory of the Government, that it is always ready to pay all just demands against it. It is but a theory, however, and is often untrue in point of fact, as we all know, and as the sad experience of many a long-delayed and disappointed claimant can amply attest. The Government demands, and seldom fails to recover, interest on debts due to it from its own citizens; and why should it be exempted from the operation of this just and equitable principle when the parties are reversed, and it becomes the debtor instead of the creditor? There is no reason and no justice in the distinction which honorable gentlemen have labored to establish in its favor, and as such the people will not fail to condemn and repudiate it.

I will now, Mr. Speaker, bring these remarks to a conclusion, with a few brief observations in regard to the Secretary of War, individually. I have not had the pleasure of exchanging a word, either directly or indirectly, with that gentleman since his interest and participation in this claim first became a subject of public comment and newspaper discussion. The opinions and convictions which I have expressed are, therefore, entirely my own, and have been maturely and deliberately formed from the facts and arguments submitted to us by the committee, and without consultation with any other persons. You, Mr. Speaker, know his character and standing in Georgia. He has adorned, and left without spot or blemish, the highest office in the gift of the gallant people of that State. He has always enjoyed the most exalted reputation for moral integrity and public purity; and the man is yet to be found in all this broad land, who can bring forward, up to the date of this transaction, any imputation against the personal honor or political fame of George W. Crawford. He has always been found, in all the relations of his public and private life, an honorable and irreproachable gentleman. It has been alleged that he did wrong in not pressing this claim to a conclusion and a final settlement before

he became a member of the Cabinet. It would doubtless have been better, as the result has shown, that he should not have become a member of the Cabinet until after this claim had been settled. But it should be borne in mind, that every proper effort had been made to obtain a speedy settlement of the claim after the passage of the act of Congress, and that the delay had been caused by the indecision of Mr. Walker, the late Secretary of the Treasury. And had this question been settled by him, as in my opinion it should have been, and the interest had been allowed, while Mr. Crawford was yet a private citizen, and bore no relation to the claim, except as the counsel and attorney of the claimant, we never should have heard, in all probability, a single word of objection raised against it. For, in that event, it would have afforded no pretext whatever for raising a public clamor against the existing Administration, or any of the members of the present Cabinet. Does, then, the mere fact that Mr. Crawford was a member of the Cabinet, warrant any impeachment of the justice and fairness of the allowance, unless it can be shown that he availed himself of his public position, or took advantage of his official connection and personal relations with Mr. Meredith and Mr. Johnson, to induce a favorable consideration and allowance of the interest? Clearly, in my judgment, it does not. And as to this fact, or rather imputation, as it should more properly be termed, all I deem it necessary to say is, that it is expressly negatived by the report of the whole committee, for they have unanimously reported that they have discovered nothing in the whole examination of this case to warrant the belief that Mr. Crawford had at any time abused or taken advantage of his official station or his personal intimacy with these gentlemen, to secure a favorable consideration and determination of this question. On the contrary, it is conclusively established that he never communicated to either of these gentlemen his connection with this claim, and that neither of them knew at the time of the settlement that he had any pecuniary interest in the allowance of it. What just ground, then, can there be for impugning the motives and assailing the conduct of the Secretary of the Treasury or the Attorney General, in the examination and adjustment of this claim, in the coarse and ribald language which we have heard here this day? What well-founded pretext, even, is there for charging either of them with fraud and corruption in the allowance and settlement of the claim, to say nothing of the other members of the Cabinet, not one of whom was ever consulted in regard to it, and who had no knowledge of its existence until after it had been entirely adjusted and settled, but who, for purposes which it is not difficult to divine, and

which, if I understand them correctly, are not less dishonest and corrupt than the imputed offences which have been alleged against them, have been unjustly dragged into this discussion, and been made to bear a part of the indiscriminate censure which has been heaped, without measure and without the slightest justification for it, upon the whole Administration? The object, sir, is apparent; but it will fail in its purpose. Time, and the impartial history of this whole transaction, which is now before the public, will vindicate the fame and reputation of each and all of these gentlemen against all such aspersions, and characterize, in terms more emphatic and opprobrious than I choose to express, the violent and vindictive assaults which have been made upon them.

But it is said, Mr. Speaker, that the example is a dangerous one, and may lead to gross abuses if sanctioned by Congress. Sir, I shall not pretend to deny that it is a precedent which will be

“More honored in the breach than the observance.”

But as this case now stands, and when I find in all the circumstances which the zeal, industry, and ability of this select committee have been able to ferret out, not one single fact has been brought to light, which has any bearing against the probity of Mr. Crawford as a man, or his integrity as a public officer, I am bound to dissent from the severe and unmerited censure which has been cast upon him. There is nothing in the history of the whole case to warrant the slightest imputation, or presumption of fraud and corruption, collusion, or combination, between him and any other members of the Cabinet, or of any resort to undue or unfair means to obtain a favorable consideration and adjustment of the claim or any part of it. The most of which he has been guilty, it strikes me, has been an act of political and official indiscretion—gross indiscretion, if you please, the worst consequences of which have unquestionably recoiled upon himself. At the same time, if he has been in any measure indiscreet in procuring the final settlement of this claim while a member of the Cabinet, his enemies have made the most of it, and he has already atoned sufficiently for it in the unmitigated obloquy and abuse which has been heaped upon him, to deter even a corrupt man from the commission of a similar error. I shall, therefore, feel myself constrained, by every consideration which can justly apply to this case, to exonerate him from every imputation which has been cast upon his integrity, or that of any of his associate members of the Cabinet; and consequently I shall vote against any and every proposition involving a denunciation of the rectitude of their motives, or a condemnation of the justice, fairness, and legality of their official conduct in regard to this matter.

